

THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA

GRADY O. HUMPHREYS, et al.,)
Plaintiffs,)
vs.)Civil Action No.: 2:07-CV-607-WKW
A. O. SMITH ELECTRICAL)
PRODUCTS COMPANY, a division)
of A. O. Smith Corporation, et al.,)
Defendants.)
)

MOTION ON BEHALF OF DEFENDANT SEPCO CORPORATION
TO DISMISS, OR IN THE ALTERNATIVE, MOTION FOR A
MORE DEFINITE STATEMENT AND/OR MOTION
FOR SEVERANCE

____ Comes now Defendant Sepco Corporation, and moves the Court to dismiss the Plaintiff's Complaint, or alternatively, require the Plaintiffs to provide a more definite statement of their claims. Additionally, an order of severance is requested. Grounds for this Motion are as set forth below:

1. The Plaintiffs' claim is due to be dismissed for failure to comply with Rules 8 and 10(b), Federal Rules of Civil Procedure. Defendant Sepco Corporation adopts and incorporates herein by reference the arguments as more fully set forth in Defendant Kelly Moore's Motion to Dismiss.
2. Plaintiffs' Complaint is due to be dismissed for failure to plead fraud with particularity as required by Rule 9(b) Federal Rules of Civil Procedure. In support of this Defense Defendant Sepco also adopts and incorporates herein by reference the arguments as more fully set forth in Kelly Moore's Motion to Dismiss.
3. Plaintiffs' Complaint fails to adequately comply with the Federal Rules of Civil Procedure and is essentially a "shotgun" pleading and as such should be dismissed and/or a more definite Complaint ordered. Sepco Corporation adopts the arguments in Kelly Moore's

Motion to Dismiss previously identified.

4. Some or all of the Plaintiffs are improperly joined. Sepco Corporation adopts Kelly Moore's Motion on the severance defense.
5. Venue in this Court is improper. Specifically, there appears to be little if any reason that this Court is the proper venue for some or all of these claims. The Plaintiffs' residences, and their worksites as set forth in the Complaint are as follows:
 - Grady Humphrey, resides in Hueytown, Alabama, and employed at various worksites in the Birmingham area. Neither Humphreys' residence nor his worksites are not in the Middle District of Alabama.
 - Bobby Essary resides in Elrod, Alabama, with worksites in the Tuscaloosa, Alabama area. Both Eserey's residence and worksites are not within the Middle District of Alabama.
 - Billy Ray Gann, resides in Belmont, Mississippi, with worksites in Red Bay, Alabama and various Mississippi locations. Neither Gann's residence nor worksite are in the Middle District of Alabama.
 - Gene Hall, resides in Redbay, Alabama and the worksites of her decedent Kathy Ivey are in Mississippi. Neither Hall's residence nor Ivey's worksites are within the Middle District of Alabama.
 - Jimmy C. Johnson, resides in Tuscumbia, Alabama, with worksites in Arizona, Illinois, and several locations in North Alabama. Neither Johnson's residence nor worksites are within the Middle District of Alabama.
 - Shirley Keller - Ms. Keller's residence is Ohatchee, Alabama. Her decedent's worksites are in Wellington, Anniston and Lincoln, Alabama. Neither Keller's residence nor her decedent Faulkner's worksites are within the Middle District of Alabama.
 - Billy Lawson, resides in Florence, Alabama. His decedent, Dessie Lawson, has worksites in Florence and Sheffield, Alabama. Neither Lawson's residence nor his decedent's worksites are within the Middle District of Alabama.
 - Hubert Varnon, resides in Glencoe, Alabama, with worksites in Georgia, Texas, and South Carolina. Neither Mr. Varner's residences nor his worksites are within the Middle District of Alabama.
 - Linda Jane Perry Wells, resides in Decatur, Alabama. Her decedent, Billy R. Wells, has worksites in Decatur, Alabama. Neither Ms. Wells' residence nor Mr. Wells' worksites are within the Middle District of Alabama.
6. Defendant Sepco Corporation incorporates herein and adopts as its own any additional

defenses raised by other Defendants through their initial Motions to Dismiss and/or other initial responsive defensive pleadings.

Respectfully submitted,

/s/Frank E. Lankford, Jr.
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CERTIFICATE OF SERVICE

I hereby certify that I have filed the above and foregoing pleading electronically with the Clerk of Court using the CM-ECF system which will send notification of same to all parties of record on this 10th day of August, 2007.

/s/Frank E. Lankford, Jr.
Of Counsel